UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSAGIE IKIKHUEME, Individually and on Behalf of All Other Persons Similarly Situated, Plaintiff, -against- CULINART, INC., MIKE VIOLA, MATTHEW SANTARPIA, and John Does # 1-10, Defendants.	ECF 13 Civ. 293 (JMF)

DECLARATION OF OSAGIE IKIKHUEME IN SUPPORT OF PLAINTIFF'S MOTION OF APPROVAL OF COLLECTIVE ACTION NOTICE

Dated: New York, New York
March 13, 2013

LAW OFFICE OF WILLIAM COUDERT RAND
William Coudert Rand, Esq.
Attorney for Plaintiff, Individually,
and on Behalf of All Other Persons Similarly Situated
488 Madison Avenue, Suite 1100
New York, New York 10022
Tel: (212) 286-1425

DECLARATION OF PLAINTIFF OSAGIE IKIKHUEME

I, **OSAGIE IKIKHUEME**, hereby declare under penalty of perjury under the laws of the United States of America that the following is true:

1. I was employed full time by CULINART, INC., MIKE VIOLA, and MATTHEW SANTARPIA (together "Defendants") as a sous chef for a number of months from about August 16, 2011 until about December 21, 2012, and was paid on an hourly basis.

2. From August 16, 2011 until about February 3, 2012, I worked as a sous chef at CulinArt, Inc. at One World Financial Center, New York, New York 10281.

3. From about February 6, 2012 until about April 31, 2012, I worked as a chef manager at York College.

4. From May 1, 2012 until December 21, 2012 I worked as a sous chef at Teachers College, Columbia University (the "time period").

5. During the time period, I was not paid for all of my hours worked, and I was not paid any overtime compensation at rates not less than one and one-half times my regular rate of pay for hours worked in excess of forty (40) hours per workweek in violation of the Fair Labor Standards Act (FLSA) and applicable New York Labor Laws.

6. Defendant CulinArt, Inc., is a regional contract dining service company, operating onsite corporate, educational, and leisure dining facilities throughout the northeast and California, with its principal place of business located at 175 Sunnyside Blvd., Plainview, New York 11803.

7. During the time period, CulinArt, Inc. had a contract with Teachers College, Columbia University ("Teachers College").

8. Defendant Mike Viola is the director of food services at Teachers College, and is my direct supervisor.

9. Upon information and belief, Defendant Matthew Santarpia is employed by CulinArt, Inc., and works for the Human Resources department.

10. Upon information and belief, Defendant Mike Viola, and Defendant Matthew Santarpia, either directly or indirectly, have hired and fired me and other food service employees; controlled my work schedule and conditions of employment; determined the rate and method of my payment; and kept at least some records regarding my employment.

11. During the time period, Defendants had at least 40 food service employees.

12. During the time period, I worked with at least 20 similar food service employees based in Teachers College.

13. During the time period, I generally worked 50-65 hours per week and was not paid for all of my hours worked.

14. I have attached hereto, as Exhibit A, copies of certain of my paystubs which prove that I was paid straight time for all hours for which Defendants gave me credit.

15. During the time period, for the months of May, October, November, and December, I generally worked five days a week, Monday through Friday.

16. During the time period, for the months of June, July, August and September, I generally worked six days a week, Monday through Saturday.

17. From Monday through Friday, I generally started work at 6:00 a.m. and ended at 4:00 p.m., or later if I worked a party. I have attached hereto, as Exhibit B, a copy of my work schedule which has me listed as working from 6:00 a.m. to 4:00 p.m., Monday

through Friday.

18. On Saturday, I generally started work at about 10:00 a.m. and ended at about 1:00 a.m.

19. On days I worked a party, in addition to my regular schedule, I worked from 4:00 p.m. until about 1:00 a.m.

20. I was generally paid a rate of $20.625 for all of the hours for which Defendants gave me credit, except for the additional party hours.

21. I was paid at a rate of $23.00 for my hours worked during a party.

22. During the time period, I was never paid time and one half my regular pay rate for my hours worked over forty (40) in a workweek ("overtime wages").

23. During the time period, I did not take a lunch break, and I generally ate while working.

24. Although Defendants have a 30 minute break listed on my schedule, I was not permitted to take this break and did not take this break

25. During the time period, Defendants did not post any notice indicating that food service employees had a right to minimum wages and/or overtime.

26. During the time period, I and the other food service employees, except for the managers, did not sign in/out or clock in/out of our jobs.

27. During the time period, I generally worked 50-65 hours per week and was not paid for all of my hours worked, and I was not paid any overtime pay.

28. Defendants generally only gave me credit for working 40-48 hours per week, and at all times paid me only straight time for all of the hours for which they gave me credit.

29. My job responsibilities did not require any independent judgment, and I did not have the power to hire or fire employees.

30. During the time period, there were at least 20 other food service employees who did similar work as myself and also had no power to hire or fire employees.

31. There is high turnover rate applicable to food service employees as most of the employees stay employed for only a few months.

32. Upon information and belief, there are at least 40 other food service employees employed by Defendants during the last three years, who worked more than forty (40) hours in a workweek, and were not paid for all of their hours worked, and did not receive time and one half for their hours worked over forty (40) in a workweek.

33. During the time period, I and these other similar food service employees worked for Defendants, but were not paid for all of our hours worked, and were not pay any overtime pay.

34. During the time period, I constantly complained to Mike Viola, and Mathew Santarpia, about not being paid any overtime wages.

35. Specifically, I complained to Mike Viola about not being paid any overtime wages when I received my first paycheck, and on a monthly basis thereafter.

36. In response to my complaints, Mike Viola informed me that it was the company's policy not to pay any employees' overtime premium pay.

37. I know that others like me were not paid for all of their hours worked, and were not paid overtime wages by Defendants because I was informed, by Mike Viola, that it was the company's policy not to pay any employee overtime wages.

38. Throughout the time period, Defendants have likewise employed other individuals, like myself, in positions as food service employees.

39. Throughout the time period, such individuals have worked long hours for Defendants, yet the Defendants have likewise failed to pay them wages for all hours worked, and overtime wages for all hours worked over 40 in a workweek.

40. After complaining about not being paid overtime wages, Defendant Mike Viola started giving me write-ups for allegedly not performing all of the tasks given to me by the executive chef.

41. I refused to sign the write-ups because they were not true, and because I had performed all of the tasks assigned to me.

42. I asked Mike Viola if I was receiving these write-ups because I had complained about not being paid overtime wages.

43. In response, he terminated me and told me I should collect unemployment.

44. I was terminated as of December 21, 2012 by Mike Viola, in retaliation for my complaints about not being paid any overtime wages.

Dated: January 14, 2013

OSAGIE IKIKHUEME

EXHIBIT A

CO.	FILE	DEPT.	CLOCK	NUMBER	120
CAF	914673	001325	X 50?X	0000644859	1

Earnings Statement

ADP

CULINART, INC.
175 SUNNYSIDE BLVD
PLAINVIEW, NY 11803

Period Beginning: 05/19/2012
Period Ending: 05/25/2012
Pay Date: 06/01/2012

Taxable Marital Status: Married
Exemptions/Allowances:
Federal: 1
NY: 1

OSAGIE P. IKIKHUEME
143-17 183RD STREET
JAMAICA NY 11413

Social Security Number: XXX-XX-XXXX

Earnings	rate	hours	this period	year to date
Regular	20.6250	48.00	990.00	16,850.32
Party Pay	23.0000	10.50	241.50	1,066.50
Party Pay			150.00	
Overtime				1,505.77
Bereavement				330.00
Car Allowance				40.25
Holiday				256.00
Personal				165.00
Retro				669.19
Sick				330.00
Gross Pay			**$1,381.50**	21,341.03

Deductions	Statutory	this period	year to date
	Federal Income Tax	-150.59	1,873.37
	Social Security Tax	-56.46	862.95
	Medicare Tax	-19.49	297.92
	NY State Income Tax	-70.10	937.89
	New York Cit Income Tax	-43.02	580.27
	NY SUI/SDI Tax	-0.60	13.20
	Other		
	Garnishment	-104.12	902.79
	Pretax Dental	-3.06*	67.32
	Pretax Medical	-34.17*	727.26
	Net Pay	**$899.89**	

* Excluded from federal taxable wages

Your federal taxable wages this period are $1,344.27

Important Notes

YOUR COMPANY'S PHONE NUMBER IS 516-437-2700.

"EXCEEDING CUSTOMER EXPECTATIONS EVERY DAY"

CO.	FILE	DEPT.	CLOCK	NUMBER	120
CAF	044673	001125	X 50X	0000643739	1

Earnings Statement

ADP

CULINART, INC.
175 SUNNYSIDE BLVD
PLAINVIEW, NY 11803

Period Beginning: 05/12/2012
Period Ending: 05/18/2012
Pay Date: 05/25/2012

Taxable Marital Status: Married
Exemptions/Allowances:
Federal: 1
NY: 1

Social Security Number: XXX-XX-XXXX

OSAGIE P. IKIKHUEME
143-17 183RD STREET
JAMAICA NY 11413

Earnings	rate	hours	this period	year to date
Regular	20.6250	48.00	990.00	15,860.32
Party Pay			200.00	675.00
Overtime				1,505.77
Bereavement				330.00
Car Allowance				40.25
Holiday				256.00
Personal				165.00
Retro				669.19
Sick				330.00
Gross Pay			**$1,190.00**	19,959.53

Deductions		this period	year to date
Statutory			
	Federal Income Tax	-121.86	1,722.78
	Social Security Tax	-48.41	806.49
	Medicare Tax	-16.71	278.43
	NY State Income Tax	-57.74	867.79
	New York Cit Income Tax	-35.49	537.25
	NY SUI/SDI Tax	-0.60	12.60
Other			
	Garnishment	-90.92	798.67
	Pretax Dental	-3.06*	64.26
	Pretax Medical	-34.17*	693.09
	Net Pay	**$781.04**	

* Excluded from federal taxable wages

Your federal taxable wages this period are $1,152.77

Important Notes

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"EXCEEDING CUSTOMER EXPECTATIONS EVERY DAY"

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CO. FILE DEPT. CLOCK NUMBER 120
CAF [illegible]

Earnings Statement

ADP

CULINART, INC.
175 SUNNYSIDE BLVD
PLAINVIEW, NY 11803

Period Beginning: 10/06/2012
Period Ending: 10/12/2012
Pay Date: 10/19/2012

Taxable Marital Status: Married
Exemptions/Allowances:
Federal: 1
NY: 1

OSAGIE P. IKIKHUEME
143-17 183RD STREET
JAMAICA NY 11413

Social Security Number: XXX-XX-XXXX

Earnings	rate	hours	this period	year to date
Regular	20.6250	48.00	990.00	33,927.82
Vacation	20.6250	8.00	165.00	1,155.00
Overtime				1,505.77
Auto				50.00
Bereavement				330.00
Car Allowance				1,395.25
Holiday				751.00
Party Pay				3,448.50
Personal				330.00
Retro				2,482.57
Sick				825.00
Tips				65.00
Gross Pay			$1,155.00	46,393.91

Deductions	Statutory	this period	year to date
	Federal Income Tax	-116.61	4,084.09
	Social Security Tax	-46.95	1,883.90
	Medicare Tax	-16.20	650.39
	NY State Income Tax	-55.49	2,008.52
	New York Cit Income Tax	-34.12	1,244.36
	NY SUI/SDI Tax	-0.60	25.80
	Other		
	Garnishment	-88.50	2,874.92
	Pretax Dental	-3.06*	128.52
	Pretax Medical	-34.17*	1,410.66
	Car Allowance		-103.00
	Net Pay	$759.30	

* Excluded from federal taxable wages

Your federal taxable wages this period are $1,117.77

Important Notes

YOUR COMPANY'S PHONE NUMBER IS 516 - 437 - 2700.

CO.	FILE	DEPT.	CLOCK	NUMBER	120
CAF	944673	091125	X 50X	0000671988	1

Earnings Statement

ADP

CULINART, INC.
175 SUNNYSIDE BLVD
PLAINVIEW, NY 11803

Period Beginning: 11/03/2012
Period Ending: 11/09/2012
Pay Date: 11/16/2012

Taxable Marital Status: Married
Exemptions/Allowances:
Federal: 1
NY: 1

OSAGIE P. IKIKHUEME
143-17 183RD STREET
JAMAICA NY 11413

Social Security Number: XXX-XX-XXXX

Earnings	rate	hours	this period	year to date
Regular	20.6250	60.00	1,237.50	37,145.32
Retro	20.6250	8.00	165.00	2,647.57
Overtime				1,505.77
Auto				50.00
Bereavement				330.00
Car Allowance				1,395.25
Holiday				751.00
Party Pay				3,690.00
Personal				330.00
Sick				825.00
Tips				65.00
Vacation				1,650.00
Gross Pay			$1,402.50	50,512.91

Deductions		this period	year to date
Statutory			
	Federal Income Tax	-153.74	4,475.39
	Social Security Tax	-57.34	2,050.64
	Medicare Tax	-19.80	707.96
	NY State Income Tax	-71.45	2,198.15
	New York Cit Income Tax	-43.85	1,361.38
	NY SUI/SDI Tax	-0.60	28.20
Other			
	Garnishment	-105.57	3,194.35
	Pretax Dental	-3.06*	140.76
	Pretax Medical	-34.17*	1,547.34
	Car Allowance		-103.00
	Net Pay	$912.92	

* Excluded from federal taxable wages

Your federal taxable wages this period are $1,365.27

Important Notes

YOUR COMPANY'S PHONE NUMBER IS 516-437-2700.

"EXCEEDING CUSTOMER EXPECTATIONS EVERY DAY"

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CO.	FILE	DEPT.	CLOCK	NUMBER	120
CAF	944673	001125	X 50X	0000673148	1

Earnings Statement

ADP

CULINART, INC.
175 SUNNYSIDE BLVD
PLAINVIEW, NY 11803

Period Beginning: 11/10/2012
Period Ending: 11/16/2012
Pay Date: 11/23/2012

Taxable Marital Status: Married
Exemptions/Allowances:
Federal: 1
NY: 1

OSAGIE P. IKIKHUEME
143-17 183RD STREET
JAMAICA NY 11413

Social Security Number: XXX-XX-XXXX

Earnings	rate	hours	this period	year to date
Regular	20.6250	47.00	969.38	38,114.70
Overtime				1,505.77
Auto				50.00
Bereavement				330.00
Car Allowance				1,395.25
Holiday				751.00
Party Pay				3,690.00
Personal				330.00
Retro				2,647.57
Sick				825.00
Tips				65.00
Vacation				1,650.00
	Gross Pay		$969.38	51,482.29

Deductions	Statutory	this period	year to date
	Federal Income Tax	-88.77	4,564.16
	Social Security Tax	-39.15	2,089.79
	Medicare Tax	-13.52	721.48
	NY State Income Tax	-43.51	2,241.66
	New York Cit Income Tax	-26.88	1,388.26
	NY SUI/SDI Tax	-0.60	28.80
	Other		
	Garnishment	-75.70	3,270.05
	Pretax Dental	-3.06*	143.82
	Pretax Medical	-34.17*	1,581.51
	Car Allowance		-103.00
	Net Pay	$644.02	

* Excluded from federal taxable wages
Your federal taxable wages this period are $932.15

Other Benefits and Information	this period	total to date
Hlth Plan Value	713.72	

Important Notes

YOUR COMPANY'S PHONE NUMBER IS 516 - 437 - 2700.

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EXHIBIT B

SCHEDULE
FALL 2012

Employee	Position	Mon 9/17	Tues 9/18	Wed 9/19	Thurs 9/20	Fri 9/21	30 min Break
Aguilera, Rosa	Catering Waiter	OFF	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	1pm
Augustine, Jerome	Deli/Salad PM	10:30am - 9:00pm	10:30am - 9:00pm	10:30am - 9:00pm	10:30am - 9:00pm	OFF	2pm
Birch, Cynthia	Cashier PM	10:30am - 9:00pm	10:30am - 9:00pm	10:30am - 9:00pm	10:30am - 9:00pm	OFF	2:00pm
Cedeno, Sandra	SB Cashier	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	11am
Cordova, Jose	SB Supervisor	10:30am - 9pm	10:30am - 9pm	10:30am - 9pm	10:30am - 9pm	OFF	varies
Durant, Charlene	Office Manager	9am - 4pm	9am - 4pm	9am - 4pm	9am - 4pm	9am - 4pm	1pm
Fernandez, Yokasta	SB Barrista PM	3pm - 9pm	3pm - 9pm	3pm - 9pm	3pm - 9pm	OFF	none
Garcia, Juan	Porter, Catering Rm	12pm - 8:30pm	12pm - 8:30pm	12pm - 8:30pm	12pm - 8:30pm	12pm - 8:30pm	11:30am
Gordon, Ron	SB Barrista AM	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	2pm
Hanley, Ben	Starbucks Chef	6:30am - 3:00pm	6:30am - 3:00pm	6:30am - 3:00pm	6:30am - 3:00pm	6:30am - 3:00pm	12pm
Harissou, Amadou	Spinning Salad	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	11am
Hernandez, Mack	Kitchen Prep	6:30am - 3pm	6:30am - 3pm	6:30am - 3pm	6:30am - 3pm	6:30am - 3pm	12pm
Ikikhueme, Osagie	Sous Chef	6am - 4pm	6am - 4pm	6am - 4pm	6am - 4pm	6am - 4pm	varies
Krivorot, Samantha	PM Manager	11am - 9:30pm	11am - 9:30pm	11am - 9:30pm	11am - 9:30pm	9am - 5pm	varies
Malota, Joseph	Café Manager, AM	6:30am - 5pm	6:30am - 5pm	6:30am - 5pm	6:30am - 5pm	OFF	12:30pm
Matilde, Carmelo	Pizza	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	11:00am
Meneses, Frank	Catering, Events	12pm - 6pm	9:30am - 6pm	9:30am - 6pm	9:30am - 6pm	9:30am - 6pm	varies
Mirambeaux, Erik	Utility	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	2pm
Montero, Manuel	Porter/Utility AM	10am - 8:30pm	10am - 8:30pm	10am - 8:30pm	10am - 8:30pm	OFF	2:30pm
Patt, Christopher	Chef	10am - 8pm	10am - 8pm	10am - 8pm	10am - 8pm	7am - 5pm	varies
Rosario, Martin	Porter, Dish Room	8am - 4:30pm	8am - 4:30pm	8am - 4:30pm	8am - 4:30pm	8am - 4:30pm	11:00am
Ross, Ebony	SB Cashier PM	3pm - 9pm	3pm - 9pm	3pm - 9pm	3pm - 9pm	OFF	none
Sosa, Rigoberto	Deli, AM	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	11am
Surun, Tatianna	Grill, AM	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	11am
Tejeda, Angelica	Cashier	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	7am - 3:30pm	11:30am
Tiatoa, Antonio	Pizza/Deli PM	10:30am - 9pm	10:30am - 9pm	10:30am - 9pm	10:30am - 9pm	OFF	2:30pm
Urbaez, Antonio	Grill PM	10:30am - 9pm	10:30am - 9pm	10:30am - 9pm	10:30am - 9pm	OFF	2pm
Viola, Mike	Director	6am - 4pm	6am - 4pm	6am - 4pm	6am - 4pm	6am - 4pm	varies
Vitrago, Ramon	Catering Production	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	6am - 2:30pm	varies